U. S. Circuit Court. Southern
District of New York #6565
National Phonograph Company and
Edison Phonograph Works vs.
Clevelan Walcutt. 1897

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UNITED STATES CIRCUIT COURT,

Southern District of New York.

NATIONAL PHONOGRAPH COMPANY and EDISON PHONOGRAPH WORKS,

-vs.-

CLEVELAND WALCUTT.

BILL OF COMPLAINT.

(On Patents Nos. 382,418, 382,462, 400,648, 414,761 and 430,274).

Dyer & Driscoll,
Complainants' Sol'rs.,
36 Wall Street,
N.Y.City, N.Y.

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TO THE HONORABLE THE JUDGES OF THE UNITED STATES CIRCUIT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK.

NATIONAL PHONOGRAPH COMPANY and EDISON PHONOGRAPH WORKS, both being corporations organized and existing under and pursuant to the laws of the State of New Jersey and having their principal places of business at the City of Orange in said State, bring this their bill of complaint against CLEVELAND WALCUTT, residing in New York in the County and State of New York and engaged in the transaction of business, as hereinafter complained of, in said City, County and State of New York.

And thereupon your orators complain and say:

That on and prior to the 8th day of May 1888, Thomas A. Edison, being then a citizen of the United States and a resident of Llewellyn Park, in the County of Essex and State of New Jersey, was the original and first inventor of certain new and useful improvements in phonogram blanks, and that the said invention was not known or used, and had not been patented or described in any printed publication before his invention thereof, and had not been in public use or on sale for more than two years prior to his application for Letters Patent therefor hereinafter mentioned, and had not been abandoned to the public.

That said Edison made due application in writing to the Commissioner of Patents of the United States for the grant of Letters Patent for said invention, and paid into the Treasury of the United States the fees required by law, and then and there fully and in all respects complied with all the necessary conditions and requirements of the statutes of the United States in such case made and provided, and thereupon, after due examination having been made by the Commissioner of Patents as

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to the novelty and utility of said invention, as provided by law, the Commissioner of Patents caused to be issued to said Edison Letters Patent in due form of law, under the seal of the Patent Office of the United States, signed by the Secretary of the Interior and countersigned by the Commissioner of Patents, and bearing date the said 8th day of May 1888, and numbered 382,418, and that the said Letters Patent did grant unto the said Edison and his heirs and assigns, for the term of seventeen years from the date thereof, the exclusive right to make, use and vend the said invention throughout the United States and the Territories thereof, as by said Letters Patent or a duly authenticated copy thereof in Court to be produced will more fully and at large appear.

That on and prior to the 8th day of May 1888, said Thomas A. Edison, being then a citizen of the United States and a resident of Llewellyn Park, in the County of Essex and State of New Jersey, was the original and first inventor of certain new and useful improvements in phonogram blanks, and that the said invention was not known or used, and had not been patented or described in any printed publication before his invention thereof, and had not been in public use or on sale for more than two years prior to his application for Letters Patent therefor hereinafter mentioned, and had not been abandoned to the public.

That said Edison made due application in writing to the Commissioner of Patents of the United States for the grant of Letters Patent for said invention, and paid into the Treasury of the United States the fees required by law, and then and there fully and in all respects complied with all the necessary conditions and requirements of the statutes of the United States in such case made and provided, and thereupon, after due examination having been made by the Commissioner of Patents

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as to the novelty and utility of said invention, as provided by law, the Commissioner of Patents caused to be issued to said Edison Letters Patent in due form of law, under the seal of the Patent Office of the United States, signed by the Secretary of the Interior and countersigned by the Commissioner of Patents, and bearing date the said 8th day of May 1888, and numbered 382,462, and that the said Letters Patent did grant unto the said Edison and his heirs and assigns, for the term of seventeen years from the date thereof, the exclusive right to make, use and vend the said invention throughout the United States and the Territories thereof, as by said Letters Patent or a duly authenticated copy thereof in Court to be produced will more fully and at large appear.

That on and prior to the 2nd day of April, 1889, said Thomas A. Edison, being then a citizen of the United States and a resident of Llewellyn Park, in the County of Essex and State of New Jersey, was the original and first inventor of certain new and useful improvements in phonogram blanks, and that the said invention was not known or used, and had not been patented or described in any printed publication before his invention thereof, and had not been in public use or on sale for more than two years prior to his application for Letters Patent therefor hereinafter mentioned, and had not been abandoned to the public.

That said Edison made due application in writing to the Commissioner of Patents of the United States for the grant of Letters Patent for said invention, and paid into the Treasury of the United States the fees required by law, and then and there fully and in all respects complied with all the necessary conditions and requirements of the statutes of the United States in such case made and provided, and thereupon, after due examination having been made by the Commissioner of Patents

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as to the novelty and utility of said invention, as provided by law, the Commissioner of Patents caused to be issued to said Edison Letters Patent in due form of law, under the seal of the Patent Office of the United States, signed by the Secretary of the Interior and countersigned by the Commissioner of Patents, and bearing date the said 2nd day of April, 1889, and numbered 400,648, and that the said Letters Patent did grant unto the said Edison and his heirs and assigns, for the term of seventeen years from the date thereof, the exclusive right to make, use and vend the said invention throughout the United States and the Territories thereof, as by said Letters Patent or a duly authenticated copy thereof in Court to be produced will more fully and at large appear.

That on and prior to the 12th day of November, 1889, said Thomas A. Edison, being then a citizen of the United States and a resident of Llewellyn Park, in the County of Essex and State of New Jersey, was the original and first inventor of certain new and useful improvements in phonogram blanks, and that the said invention was not known or used, and had not been patented or described in any printed publication before his invention thereof, and had not been in public use or on sale for more than two years prior to his application for Letters Patent therefor hereinafter mentioned, and had not been abandoned to the public.

That said Edison made due application in writing to the Commissioner of Patents of the United States for the grant of Letters Patent for said invention, and paid into the Treasury of the United States the fees required by law, and then and there fully and in all respects complied with all the necessary conditions and requirements of the statutes of the United States in such case made and provided, and thereupon, after due examination having been made by the Commissioner of

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Patents as to the novelty and utility of said invention, as provided by law, the Commissioner of Patents caused to be issued to said Edison Letters Patent in due form of law, under the seal of the Patent Office of the United States, signed by the Secretary of the Interior and countersigned by the Commissioner of Patents, and bearing date the said 12th day of November 1889, and numbered 414,761, and that the said Letters Patent did grant unto the said Edison and his heirs and assigns, for the term of seventeen years from the date thereof, the exclusive right to make,use and vend the said invention throughout the United States and the Territories thereof, as by said Letters Patent or a duly authenticated copy thereof in Court to be produced will more fully and at large appear.

That on and prior to the 17th day of June, 1890, said Thomas A. Edison, being then a citizen of the United States and a resident of Llewellyn Park, in the County of Essex and State of New Jersey, was the original and first inventor of certain new and useful improvements in phonogram blanks, and that the said invention was not known or used, and had not been patented or described in any printed publication before his invention thereof, and had not been in public use or on sale for more than two years prior to his application for Letters Patent therefor hereinafter mentioned, and had not been abandoned to the public.

That said Edison made due application in writing to the Commissioner of Patents of the United States for the grant of Letters Patent for said invention, and paid into the Treasury of the United States the fees required by law, and therein and there fully and in all respects complied with all the necessary conditions and requirements of the statutes of the United States in such case made and provided, and thereupon, after due examination having been made by the Commissioner of Patents

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as to the novelty and utility of said invention, as provided by law, the Commissioner of Patents caused to be issued to said Edison Letters Patent in due form of law, under the seal of the Patent Office of the United States, signed by the Secretary of the Interior and countersigned by the Commissioner of Patents, and bearing date the said 17th day of June, 1890, and numbered 430,274, and that the said Letters Patent did grant unto the said Edison and his heirs and assigns, for the term of seventeen years from the date thereof, the exclusive right to make, use and vend the said invention throughout the United States and the Territories thereof, as by said Letters Patent or a duly authenticated copy thereof in Court to be produced will more fully and at large appear.

Your orator National Phonograph Company shows that by virtue of certain assignments in writing duly executed and delivered, it became, prior to the infringing acts hereinafter complained of, has ever since been, and now is, possessed of the full and entire right, title and interest in and to each and all of the aforesaid Letters Patent save as hereinafter set forth, together with any and all right or rights of action, claims and demands whatsoever for damages or profits, or both, accruing under the same subsequent to the 16th day of January 1896, with full right to sue upon and collect the same for its own use and behoof, as by said assignments or duly authenticated copies thereof, in Court to be produced, will appear.

Your orator Edison Phonograph Works shows that prior to the performance of the acts hereinafter complained of, it became, has ever since been, and now is, vested with the sole and exclusive right, liberty and license to manufacture under each and all of the Letters Patent aforesaid.

Your orators, therefore, show unto your Honors that prior to the performance of the acts hereinafter complained of, they became, have ever since been, and now are, possessed of

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the full and entire right, title, interest and estate under the said several Letters Patent and each and every of them.

And your orators further show that the said several inventions are of great commercial value and practical utility; that a great public interest has been manifested therein, and a large demand created for devices constructed in accordance with or embodying the same. That in order to supply this demand and to confer upon the public the benefits and advantages under said Letters Patent, your orators and their predecessors in interest have invested and expended large sums of money in adapting and perfecting such devices and in devising and constructing special machinery, tools and appliances for the manufacture of the same, and that they are and have been since a period prior to the performance of the acts hereinafter complained of, so equipped and otherwise prepared as to be able to supply the market with phonogram blanks employing and containing the said several inventions, and that they have been and are in fact placing upon the market phonogram blanks in large quantities, manufactured under said several Letters Patent and duly marked with the word "Patented" and the dates of the several Letters Patent aforesaid in the manner provided by law.

Your orators further show that the said several inventions or improvements described and claimed in said several Letters Patent were designed for and are capable of use conjointly, and that in the defendant's structures hereinafter complained of they are so used.

Yet the defendant, well knowing the premises and the rights secured to your orators as aforesaid, but contriving to injure them and to deprive them of the benefits and advantages which might and otherwise would accrue unto them from the said several inventions, after the acquiring of your orators'

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interest as hereinbefore set forth and before the commencement of this suit, did, as your orators are informed and believe, within the Southern District of New York and elsewhere within the United States, without license or allowance, and against the will of your orators and in violation of their rights, unlawfully and wrongfully make, use and sell, or cause to be made, used and sold, and is now making, using and selling, or causing to be made, used and sold, phonogram blanks employing and containing conjointly the inventions set forth in said several Letters Patent, that he still continues so to do, and that he is threatening to continue the aforesaid unlawful acts to a large extent, all in defiance of the rights secured to your orators as aforesaid and to their great and irreparable loss and injury, and by which they have been and still are being deprived of great gains and profits which they might and otherwise would have obtained, but which have been received and enjoyed by the said defendant through his aforesaid unlawful acts and doings. And your orators show that as to the amount of such gains and profits had and received by the said defendant, they are ignorant and pray a discovery thereof.

And your orators further show unto your Honors, on information and belief, that the said defendant had notice of the said Letters Patent and each of them, and of his infringement thereof, prior to the filing of this bill of complaint. They further show that the manufacture, use and sale of phonogram blanks employing and containing the said several inventions set forth in said several Letters Patent by the said defendant, and his preparation for and avowed determination to continue the same and his other aforesaid unlawful acts in disregard and defiance of the rights of your orators, have the effect to and do encourage and induce others to venture to infringe said several Letters Patent to your orators' great loss and injury.

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Your orators therefore pray that the said defendant, Cleveland Walcutt, and his servants, agents, attorneys, employees, workmen and confederates, and each and every of them, may be perpetually restrained and enjoined by the order and injunction of this Honorable Court from directly or indirectly making, constructing, using, vending, delivering, working, or putting into operation or use, or in anywise counterfeiting or imitating the said several inventions or any part or parts thereof, or any phonogram blank or blanks for sound recording and reproducing machines made or operated in accordance therewith or like or similar to those which the said defendant has heretofore made, sold, constructed, operated or used. Your orators further pray that the said defendant may be required to account for and pay over unto your orators all the gains and profits which have accrued or arisen out of the acts hereinbefore complained of, and all the gains and profits which would have accrued to your orators but for the said unlawful acts and doings, and all damages your orators have sustained thereby. Your orators further pray that the said defendant may be decreed to pay the costs of this suit, and that your orators may have such other and further relief as to this Honorable Court shall seem meet and as shall be agreeable to equity.

May it please your Honors to grant unto your orators the writ of injunction pendente lite, issuing out of and under the seal of this Honorable Court, commanding, enjoining and restraining the said Cleveland Walcutt and his servants, agents, attorneys, employees, workmen and confederates, and each and every of them, during the pendency of this suit, as hereinbefore in that behalf prayed in regard to said perpetual injunction.

And forasmuch as your orators can have no adequate relief save in this Court, to the end therefore that the said

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defendant may, if he can, show why your orators should not have the relief hereby prayed, and may, but not upon oath, answer under oath being hereby expressly waived, according to his best and utmost knowledge, remembrance, information and belief, full, true, direct and perfect answer make to the premises and to all the several matters hereinbefore stated and charged, as fully and particularly as if severally and separately interrogated as to each and every of said matters:

May it please your Honors to grant unto your orators the writ of subpoena issuing out of and under the seal of this Honorable Court, directed to the said defendant, Cleveland Walcutt, commanding him by a certain day and under a certain penalty to be and appear in this Honorable Court, then and there to answer to the premises and to stand to and abide such order and decree as may be made against him.

And your orators will ever pray, etc.

National Phonograph Company
by John F. Randolph
Treasurer.

Edison Phonograph Works
by Thomas A. Edison
President.

Dyer & Driscoll
Solicitors for Complainants.

Rich'd N. Dyer.
J. C. Edmonds
Counsel for Complainants.

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State of New Jersey, :
:ss:
County of Essex. :

JOHN F. RANDOLPH, being duly sworn, deposes and says, that he is the Treasurer of National Phonograph Company, one of the complainants named in the foregoing bill of complaint; that he has read said bill of complaint and knows the contents thereof; that the same is true to his own knowledge, except as to such matters as are alleged upon information and belief, and as to those matters he believes it to be true.

John F. Randolph

Subscribed and sworn to before me: :
this first day of ~~February~~ March, 1897.:

Alexander Elliott Jr.
Notary Public
of New Jersey.

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U. S. Circuit Court
Southern Dist. of N.Y.

Equity

National Phonograph
Co. and Edison Phonograph
Works
Complainants'
vs
Cleveland Walcutt
Defendant

Answer

CIRCUIT COURT
FILED
SEP 1901

H. A. West
Solr for Defendant
31 Nassau St
N.Y. City

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UNITED STATES CIRCUIT COURT

SOUTHERN DISTRICT OF NEW YORK.

NATIONAL PHONOGRAPH CO. and EDISON PHONOGRAPH WORKS, Complainants, vs CLEVELAND WALCUTT, Defendant.	IN EQUITY.

The answer of the defendant Cleveland Walcutt to the bill of complaint herein.

This defendant, now and at all times hereafter, saving and reserving to himself, all and all manner of benefit of exception which may be had or taken to the manifold errors, uncertainties, imperfections and insufficiencies of the said bill of complaint, for answer thereto, or to so much or such parts thereof as he is advised it is material or necessary to make answer unto, answering says:

1. That he is informed and believes and hence admits the fact to be that the several letters patent of the United States in said bill of complaint mentioned were issued to Thomas A. Edison at the dates and for the alleged inventions as set forth in said bill of complaint; but whether any of the requirements of law necessary to the issue of valid letters patent were sufficiently complied with, this defendant has no knowledge or information suf-

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ficient to form a belief, and leaves the complainants to make due proof thereof.

2. That he has no knowledge or information sufficient to form a belief as to whether the said complainants are duly organized and legally existing corporations under the laws of the State of New Jersey; or whether the said patents were legally assigned to the said National Phonograph Co.; or whether the said Edison Phonograph Works is the lawful licensee under said patents or any of them from or of the said National Phonograph Co., and hence this defendant leaves the complainants to make due proof thereof.

3. But this defendant, on information and belief, denies that the said Thomas A. Edison was the true, original, or first inventor of anything that is in said patents described and claimed; and he denies that there is anything of patentable invention in said patents described and claimed that was not known or used by others before the said alleged invention thereof; and denies that there is anything in said patents described or claimed that was not abandoned to the public and not in public use or on sale in the United States for more than two years prior to the applications for said patents; and denies that said alleged inventions are of great or of any importance, value, novelty or utility; but whether the complainants have made the said alleged inventions profitable to themselves or useful to the public this defendant does not know and

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therefore leaves the complainants to make due proof thereof.

4. And further answering this defendant denies that he has ever in any manner infringed upon any rights that were secured to the complainants by the said patents, as to which the complainants have any cause of action whatsoever against this defendant, and he denies that he has ever in any manner infringed upon said patents, denies that the complainants have any right to an accounting of or recovery for profits or damages, or any right to an injunction in any manner whatsoever, and denies that he has ever manufactured, used or sold or caused to be manufactured, used or sold any article in infringement of said patents, or any of them, and denies that he has threatened so to do or ever intends so to do.

5. And this defendant further answering on information and belief says that said patents in said bill of complaint mentioned are each null and void and of no effect in law for that for the purpose of deceiving the public the description and specification filed by the patentee in the Patent Office in each patent was made to contain less than the whole truth relative to the alleged invention or discovery, or more than is necessary to produce the desired effect.

6. And this defendant further answering on information and belief says that the patentee did surreptitiously or unjustly obtain each of said patents, and

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that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same, and that each of said patents is therefore null and void.

7. And this defendant further answering on information and belief says that the said patentee was not the original and first inventor or discoverer of any material and substantial part of the thing patented in either of the patents in said bill of complaint mentioned and that each patent is therefore null and void.

8. And this defendant on information and belief says that said patents in said bill of complaint mentioned and each and every of them and every part of each of them, are and is null and void because the specifications accompanying the same and forming part thereof is not in such full, clear and exact terms as to enable any person skilled in the art to which it appertains or with which it is most nearly connected, to practice the said alleged inventions, and because the patentee did not in said patents make known to the public the true, best or any proper manner or process of making, constructing, compounding or using the said alleged inventions or discoveries.

9. And this defendant further answering says on information and belief that the compositions of matter recited in the specification accompanying each of said patents in said bill mentioned are not claimed as compositions of matter in proper proportions as the law requires

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but the claims each specify contrary to law an alleged new article of manufacture, and that therefore each of said patents, and each and every part thereof is null and void.

10. And this defendant further answering on information and belief says that the patents in said bill mentioned are each null and void, because that, in view of the then existing state of the art considered, no patentable invention is shown, described and claimed therein.

11. And this defendant further answering on information and belief says that each of the patents in said bill mentioned are null and void because the patentee was not the original or first inventor or discoverer of any material or substantial part of the alleged inventions, but that the same and every material and substantial part there of had been patented or described in some patents and printed publications noticed below, prior to the patentee's supposed invention or discovery thereof, and the same had been previously invented and used in this country by or was known to the following named persons at the places set opposite their names, to wit:

Charles Sumner Tainter of Washington D. C.; at Washington D. C.

Chichester A. Bell of Washington D. C. at Washington D. C.

Letters Patent to Bell and Tainter May 4, 1886 No.341,214.

U. S. Letters Patent to C. S. Tainter Dec.27,1887, No. 375579.

" " " " to S. Tainter May 4,1886 No.341,288.

" " " " to G. H. Herrington Nov.13,1888 No. 392,953.

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U. S. Letters Patent to A. W. Hall Sept. 23,1879 No. 219,939.

" " " " to J. A. Cramer Apr.2,1861 No.31873.

" " " " to A. Wycoff Apr.16,1861 No. 32,100.

" " " " to F. R. Wagman 1869,No.91,291

" " " " to Marsh and Whitney Apr.26, 1853 No. 9,692.

" " " " to J. Wilcox 1867 No.63128

" " " " to R.C.Totten 1867 No.63443.

" " " " to D.E.Cotton 1867 No.71,991.

" " " " toW.A.Bole Dec. 8, 1885 No. 331940.

And this defendant denies all and all manner of unlawful acts wherewith he is charged in said bill of complaint; and all of which matters and things herein stated this defendant is ready and willing to prove as this Court shall direct and this defendant humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

Albert Wells
Solr for Defendt
31 Nassau St N.Y. City

Cleveland Walcott

State of New York
County of New York

Cleveland Walcott being duly sworn deposes and says that he is the Defendant named in the foregoing answer, that he has read such answer and knows the contents thereof, that the same is true of his own knowledge except as to those matters therein stated on information and belief, and that as to such matters he believes it to be true

Cleveland Walcott

Sworn to and subscribed before me this 1st day of May 1889

Charles Brady
Commr of Deeds,
N.Y. Co.

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A-6565

UNITED STATES CIRCUIT COURT,

Southern District of New York.

In Equity.

NATIONAL PHONOGRAPH CO., et al,

vs.

CLEVELAND WALCUTT.

DECREE.

U. S. CIRCUIT COURT FILED AUG 16 1897 CHAS. WELDS, CLERK

Dyer & Driscoll,
Compltn' Sol'rs.
31 Nassau Street,
New York City, N.Y.

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At a Stated Term of the United States Circuit Court for the Second Circuit, held at the United States Court Rooms, Post Office Building, New York, N. Y., on the 16th day of August, one thousand eight hundred and ninety-seven,

Present,

HON. E. HENRY LACOMBE,

Circuit Judge.

NATIONAL PHONOGRAPH COMPANY, et al,	
vs.	In Equity.
CLEVELAND WALCUTT.	

This cause having come on to be heard, it is, upon motion of Dyer & Driscoll, complainants' solicitors, ORDERED, ADJUDGED AND DECREED as follows:

That Letters Patent of the United States,

No. 382,418, granted May 8, 1888, to Thomas A. Edison,
" 382,462, " " " " " "
" 400,648, " April 2, 1889, to "
" 414,761, " November 12, 1889, to "
" 430,274, " June 17, 1890, to "

all for Phonogram Blanks, being the Letters Patent in suit, are good and valid Letters Patent. That the complainant National Phonograph Company is the exclusive owner of said several Letters Patent, and that the complainant Edison Phonograph Works is the sole licensee thereunder, and that said complainants together are entitled to sue for and recover all claims for damages and profits arising out of the infringement of said several Letters Patent from the 16th day of January 1896, and that

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the defendant, Cleveland Walcutt, has infringed upon said several Letters Patent and upon each and every of them, by manufacturing, using and vending phonogram blanks embodying and containing the several inventions and improvements in said Letters Patent set forth and covered by the claims thereof.

That the complainants recover of the defendant the profits, gains and advantages which he has received or made, or which have arisen or accrued to him from the said infringement since the 16th day of January 1896, and in addition thereto the damages which the complainants have sustained thereby.

And it being agreed by the parties that reference to a Master be waived, and that the profits and damages to be recovered by the complainants of the defendant be assessed at the sum of one dollar, it is further

ORDERED, ADJUDGED AND DECREED that the complainants recover of the defendant the sum of one dollar as damages and profits for said infringement, and that execution issue therefor. It is further decreed that the complainants recover of the defendant the costs of this suit.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a perpetual injunction issue against the defendant in accordance with the prayer of the bill.

E. H. Lacombe

United States Circuit Judge.

I hereby consent to the filing and entry of the above decree.

Cleveland Walcutt

Defendant pro se.

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Form No. 302.

I hereby certify, That on the 25th day of August 189 7, at the City of New York, in my District, I personally served the within Injunction upon the within-named

Cleveland Walcutt

by exhibiting to him

the within original, and at the same time leaving with him a copy thereof.

John H. McCarty
United States Marshal,
Southern District of New York.

Dated SEP 17 1897, 189

UNITED STATES CIRCUIT COURT,

Southern District of New York.

In Equity.

NATIONAL PHONOGRAPH COMPANY and EDISON PHONOGRAPH WORKS,

vs.

CLEVELAND WALCUTT.

INJUNCTION.

Dyer & Driscoll,
Complts' Sol'rs.
31 Nassau Street,
New York City, N.Y.

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UNITED STATES OF AMERICA.

CIRCUIT COURT OF THE UNITED STATES

SOUTHERN DISTRICT OF NEW YORK.

IN EQUITY.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To CLEVELAND WALCUTT, his servants, agents, attorneys, employees, workmen and confederates, and each and every of them:

WHEREAS it hath lately been represented to us in our said Circuit Court of the United States, sitting as a court of equity, on the part of NATIONAL PHONOGRAPH COMPANY and EDISON PHONOGRAPH WORKS, complainants, that they, the said complainants, have lately exhibited their bill of complaint against you, the said CLEVELAND WALCUTT, defendant, to be relieved touching the matters therein contained, in which bill it is, among other things, set forth that Letters Patent were granted and issued by the United States to Thomas A. Edison for new and useful inventions in Phonogram Blanks, which Letters Patent are numbered and dated as follows:

No.	382,418,	granted	May 8, 1888,
"	382,462,	"	" " "
"	400,648,	"	April 2, 1889,
"	414,761,	"	November 12, 1889,
"	430,274,	"	June 17, 1890,

and that the said complainants have become and now are proprietors of said several Letters Patent; and it being also set forth in said bill that you, the said defendant, have made, used, and vended to others to be used and sold, and that you are now making, using, and vending to others to be used and sold, phonogram blanks containing, using and employing the above-mentioned inventions or improvements and substantial and material parts thereof, and which are an infringement upon said

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several Letters Patent, and that your acts and doings are contrary to equity and good conscience:

WE THEREFORE, in consideration of the premises and the same appearing to us to be true, do strictly and fully command and perpetually enjoin and restrain you, the said Cleveland Walcutt, defendant, and your servants, agents, attorneys, employees, workmen and confederates, and each and every of you, under the penalty that may fall thereon, that you, and each and every of you, do henceforth altogether and entirely desist and refrain from directly or indirectly making, constructing, using, vending, delivering, working, or putting into operation or use, or in anywise counterfeiting or imitating the said several inventions or any part or parts thereof, or any phonogram blank or blanks for sound recording and reproducing machines made or operated in accordance therewith or like or similar to those which you, the said defendant, have heretofore made, sold, constructed, operated or used, and from in any way infringing upon said several Letters Patent or the rights of the complainants under the same.

AWC

WITNESS the Honorable Melville W. Fuller, Chief Justice of the United States, at the City of New York, in said District, this 17th day of August, in the year one thousand eight hundred and ninety-seven.

Clerk United States Circuit Court
For the Southern Dist. of N. Y.

Solicitors for Complainants.

Of Counsel for Complainants.

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